

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SOPEE KHEN,

Petitioner,

No. CIV-S-04-2150 ALA HC

vs.

WARDEN OF HIGH DESERT
STATE PRISON,

ORDER

Respondent.

Petitioner Sopee Khen, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's November 6, 2007, denial of his petition for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. FED. R. APP. P. 22(b).

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For the reasons set forth the court’s November 6, 2007, order petitioner has not made a substantial showing of the denial of a constitutional right. Accordingly, a certificate of

1 appealability will not issue in this action.

2 IT IS SO ORDERED.

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4 DATED: February 8, 2008

5 /s/ Arthur Alarcón
6 UNITED STATES CIRCUIT JUDGE
7 Sitting by Designation
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